

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE ENROLLED ACT No. 1104

AN ACT to amend the Indiana Code concerning alcoholic beverages and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-2.5-6-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 14. (a) The department shall compile a list annually of retail merchants that sell tobacco products that includes the following information:**

- (1) On a county by county basis, the name and business address for each location at which the retail merchant sells tobacco products.**
- (2) The name and business address of each new retail merchant since the previous report.**
- (3) The name and business address of each retail merchant that no longer sells tobacco products since the previous report.**

The department shall deliver the list prepared under this section to the division of mental health and the alcoholic beverage commission.

(b) A retail merchant that sells tobacco products must provide the information required by the department under this section.

(c) The department shall prescribe the form, or modify an existing form, to collect the information required by this section.

SECTION 2. IC 6-8.1-7-1, AS AMENDED BY HEA 2022-1999, IS

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AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

- (1) members and employees of the department;
- (2) the governor;
- (3) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes; or
- (4) any authorized officers of the United States;

when it is agreed that the information is to be confidential and to be used solely for official purposes.

(b) The information described in subsection (a) may be revealed upon the receipt of a certified request of any designated officer of the state tax department of any other state, district, territory, or possession of the United States when:

- (1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and
- (2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family and children, and to any county director of family and children located in Indiana, upon receipt of a written request from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of employment relating to any individual who is delinquent in paying educational loans owed to an institution of higher education may be

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revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved institutions of higher learning (as defined by IC 20-12-21-3(2)). The department shall establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor, and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

- (1) the state agency shows an official need for the information; and
- (2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(h) may be released solely for tax collection purposes to township assessors.

(h) The department shall notify the appropriate innkeepers' tax board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

(i) All information relating to the delinquency or evasion of the motor vehicle excise tax shall be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

(j) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana must be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(k) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International

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Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(l) This section does not apply to:

- (1) the beer excise tax (IC 7.1-4-2);
- (2) the liquor excise tax (IC 7.1-4-3);
- (3) the wine excise tax (IC 7.1-4-4);
- (4) the hard cider excise tax (IC 7.1-4-4.5);
- (5) the malt excise tax (IC 7.1-4-5);
- (6) the motor vehicle excise tax (IC 6-6-5);
- (7) the commercial vehicle excise tax (IC 6-6-5.5); and
- (8) the fees under IC 13-23.

(m) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and the alcoholic beverage commission solely for the purpose of the list prepared under IC 6-2.5-6-14.

SECTION 3. IC 7.1-1-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. ~~Scope: Exceptions:~~

(a) The provisions of this title shall not prohibit **the following:**

- (1) The manufacture, sale, possession, transportation, or use of vinegar.
- (2) The sale or transportation of sacramental wine to a minister, priest, or rabbi for a religious purpose.
- (3) The manufacture, purchase, possession, transportation, or distribution of sacramental wine for a religious purpose by a minister, priest, or rabbi.
- (4) The manufacture of wine or beer **that is not offered for sale and is used only for the following purposes:**
 - (A) **Personal or family use.**
 - (B) **Use in one's own the residence of the person who manufactures the wine or beer.**
 - (C) **Use at organized affairs or exhibitions.**
 - (D) **Technical or sensory evaluations.**
 - (E) **Wine or beer educational seminars.**
 - (F) **Wine or beer competitions, including contests, tastings, or judgments.**

- (5) The manufacture, sale, possession, transportation, or use of industrial alcohol. ~~or~~
- (6) Alcoholic beverages held, served, or consumed on airline flights.

(b) ~~The purchase, transportation to, and the possession of alcoholic beverages for use only in one's own residence described in subsection~~



(a)(4) shall not be prohibited but shall be subject to the applicable provisions of this title.

(c) The manufacture, sale, possession, transportation, or use of alcohol or alcoholic beverages, or a preparation containing alcohol for a medicinal, scientific, or mechanical purpose, shall not be prohibited but shall be controlled, regulated, and confined to permittees as provided in this title.

SECTION 4. IC 7.1-2-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) An enforcement officer is vested with full police powers and duties to enforce:

- (1) the provisions of this title;
- (2) any other law of this state relating to alcohol or alcoholic beverages; and
- (3) ~~youth tobacco sales~~ **laws, including tobacco vending machines.**

(b) An enforcement officer may issue a summons for infraction or misdemeanor violations if the defendant promises to appear by signing the summons. A defendant who fails to appear is subject to the penalties provided by IC 35-44-3-6.5. Upon failure to appear, the court shall issue a warrant for the arrest of the defendant.

(c) In addition to the authority of an enforcement officer under subsection (a), an enforcement officer may act as an officer for the arrest of offenders against the laws of this state if the enforcement officer reasonably believes that a crime is or is about to be committed or attempted in the enforcement officer's presence.

SECTION 5. IC 7.1-2-3-33 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 33. The commission is authorized to:**

- (1) **investigate a violation of; and**
- (2) **enforce a penalty for a violation of;**

IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.3, IC 35-46-1-11.5, or IC 35-46-1-11.7.

SECTION 6. IC 7.1-3-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. The holder of a brewer's permit or an out-of-state brewer holding either a primary source of supply permit or an out-of-state brewer's permit may do the following:

- (1) Manufacture beer.
- (2) Place beer in containers or bottles.
- (3) Transport beer.
- (4) Sell and deliver beer to a person holding a beer wholesaler's permit issued under IC 7.1-3-3.

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(5) If the brewer's brewery manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year, do the following:

(A) Sell and deliver beer to a person holding a retailer or a dealer permit under this title.

(B) Be the proprietor of a restaurant.

(C) Hold a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant established under clause (B).

(D) Transfer beer directly from the brewery to the restaurant by means of:

(i) bulk containers; or

(ii) a continuous flow system.

(E) Install a window between the brewery and an adjacent restaurant that allows the public and the permittee to view both premises.

(F) Install a doorway or other opening between the brewery and an adjacent restaurant that provides the public and the permittee with access to both premises.

(6) If the brewer's brewery manufactures more than twenty thousand (20,000) barrels of beer in a calendar year, own a portion of the corporate stock of another brewery that:

(A) is located in the same county as the brewer's brewery;

(B) manufactures less than twenty thousand (20,000) barrels of beer in a calendar year; and

(C) is the proprietor of a restaurant that operates under subdivision (5).

(7) Sell and deliver beer to a consumer at the plant of the brewer or at the residence of the consumer. The delivery to a consumer shall be made only in a quantity at any one (1) time of not more than one-half (1/2) barrel, but the beer may be contained in bottles or other permissible containers.

(8) Provide complimentary samples of beer that are:

(A) produced by the brewer; and

(B) offered to consumers for consumption on the brewer's premises.

(9) Own a portion of the corporate stock of a sports corporation that:

(A) manages a minor league baseball stadium located in the same county as the brewer's brewery; and

(B) holds a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant located in that stadium.

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(10) For beer described in IC 7.1-1-2-3(a)(4):

(A) may allow transportation to and consumption of the beer on the licensed premises; and

(B) may not sell, offer to sell, or allow sale of the beer on the licensed premises.

SECTION 7. IC 7.1-3-12-5, AS AMENDED BY HEA 1299-1999, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) The holder of a farm winery permit:

(1) is entitled to manufacture wine and to bottle wine produced by the permit holder's farm winery;

(2) is entitled to serve complimentary samples of the winery's wine on the licensed premises;

(3) is entitled to sell the winery's wine on the licensed premises to consumers either by the glass, or by the bottle, or both;

(4) is entitled to sell wine by the bottle or by the case to a person who is the holder of a permit to sell wine at either wholesale or retail;

(5) is exempt from the provisions of IC 7.1-3-14; ~~and~~

(6) is entitled to advertise the name and address of any retailer or dealer who sells wine produced by the permit holder's winery; **and**

(7) for wine described in IC 7.1-1-2-3(a)(4):

(A) may allow transportation to and consumption of the wine on the licensed premises; and

(B) may not sell, offer to sell, or allow the sale of the wine on the licensed premises.

(b) With the approval of the commission, a holder of a permit under this chapter may conduct business at a second location that is separate from the winery. At the second location, the holder of a permit may conduct any business that is authorized at the first location, except for the manufacturing or bottling of wine.

(c) With the approval of the commission, a holder of a permit under this chapter may, individually or with other permit holders under this chapter, participate in a trade show or an exposition at which products of each permit holder participant are displayed, promoted, and sold. The commission may not grant approval under this subsection to a holder of a permit under this chapter:

(1) more than three (3) times in a calendar year; and

(2) for more than three (3) days for each event.

SECTION 8. IC 7.1-5-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. ~~Taking Alcoholic Beverage On Licensed Premises Prohibited.~~ **(a) This section does not**



apply to a person who, on or about a licensed premises, carries, conveys, or consumes beer or wine:

- (1) described in IC 7.1-1-2-3(a)(4); and
- (2) not sold or offered for sale.

(b) It is a Class C misdemeanor for a person, for his own use, to knowingly carry on, convey to, or consume, on or about the licensed premises of a permittee, an alcoholic beverage that was not then and there purchased from that permittee.

SECTION 9. IC 7.1-6-2-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) **The youth tobacco education and enforcement fund is established. The fund shall be administered by the commission.**

(b) **Expenses of administering the fund shall be paid from money in the fund.**

(c) **The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.**

(d) **Money in the fund at the end of a state fiscal year does not revert to the state general fund.**

(e) **Money in the fund shall be used for the following purposes:**

- (1) **One-third (1/3) of the money in the fund for youth smoking prevention education. The commission may contract with the state department of health or the office of the secretary of family and social services for youth smoking prevention education programs.**
- (2) **One-third (1/3) of the money in the fund for education and training of retailers who sell tobacco products. The commission may contract with education and training programs of the office of the secretary of family and social services, the division of mental health, enforcement officers, or a program approved by the commission.**
- (3) **One-third (1/3) of the money in the fund to the commission for enforcement of youth tobacco laws.**

SECTION 10. IC 35-46-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) A person who knowingly sells or distributes tobacco to a person less than eighteen (18) years of age commits a Class C infraction. **For a sale to take place under this section, the buyer must pay the seller for the tobacco product.**

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.



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(c) It is a defense that the accused person reasonably believed that the buyer or taker was at least eighteen (18) years of age. The following defenses are available to a person accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

- (1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph, showing that the purchaser or recipient was of legal age to make the purchase.
- (2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1, or a similar card issued under the laws of another state or the federal government, showing that the purchaser or recipient was of legal age to make the purchase.
- (3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused person sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

- (1) agriculture;
- (2) processing;
- (3) transporting;
- (4) wholesaling; or
- (5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a person who sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund (IC 7.1-6-2-6).

SECTION 11. IC 35-46-1-10.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 10.2. (a) A retail establishment that sells or distributes tobacco to a person less than eighteen (18)**

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years of age commits a Class C infraction. For a sale to take place under this section, the buyer must pay the retail establishment for the tobacco product. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

- (1) If the retail establishment at that specific business location has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).
- (2) If the retail establishment at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of one hundred dollars (\$100).
- (3) If the retail establishment at that specific business location has had two (2) citations or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).
- (4) If the retail establishment at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).

A retail establishment may not be issued a citation or summonses for a violation of this section more than once every twenty-four (24) hours for each specific business location.

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) The following defenses are available to a retail establishment accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

- (1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph showing that the purchaser or recipient was of legal age to make the purchase.
- (2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1, or a similar card issued under the laws of another state or the federal government, showing that the purchaser or recipient was of legal age to make the purchase.
- (3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug



Administration.

(d) It is a defense that the accused retail establishment sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

- (1) agriculture;
- (2) processing;
- (3) transporting;
- (4) wholesaling; or
- (5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund (IC 7.1-6-2-6).

SECTION 12. IC 35-46-1-11.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 13, 1999]: Sec. 11.3. (a) This section does not apply to advertisements **that are less than fourteen (14) square feet and** posted:

- (1) at street level **in the window or** on the exterior of a business **property or** establishment where tobacco products are manufactured, distributed, or sold; or
- (2) on vehicles.

(b) After ~~December 31, 1996~~, **May 13, 1999**, a person may not advertise or cause to be advertised tobacco products on a billboard located within two hundred (200) feet of a public or private elementary or secondary school, as measured between the nearest point of the billboard and the nearest point of a building used by the school for instructional purposes; **or an outdoor advertisement that occupies an area that exceeds fourteen (14) square feet, including any advertisement that functions as a segment of a larger advertising unit or series.**

(c) A person who violates this section commits a ~~Class C misdemeanor~~. **Class C infraction. An advertisement that is in violation of this section must be removed not more than ten (10) days after a citation or summons has been issued. Notwithstanding**

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IC 34-28-5-4(c), if an advertisement that is in violation of this section is not removed not more than ten (10) days after a citation or summons has been issued, a civil judgment for an infraction committed under this section must include a civil penalty of one hundred dollars (\$100) for each day that the advertisement was in violation of this section.

(d) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund (IC 7.1-6-2-6).

SECTION 13. IC 35-46-1-11.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11.5. (a) **Except for a coin machine that is placed in or directly adjacent to an entranceway or an exit, or placed in a hallway, a restroom, or another common area that is accessible to persons who are less than eighteen (18) years of age,** this section does not apply to a coin machine that is located in the following:

- (1) That part of a licensed premises (as defined in IC 7.1-1-3-20) where entry is limited to persons who are at least eighteen (18) years of age.
- (2) Private industrial or office locations that are customarily accessible only to persons who are at least eighteen (18) years of age.
- (3) Private clubs if the membership is limited to persons who are at least eighteen (18) years of age.
- (4) ~~A location where the vending machine can be operated only by:~~

~~(A) the owner; or~~

~~(B) an employee;~~

~~who is at least eighteen (18) years of age. The vending machine may be operated directly or through a remote control device if the device is inaccessible to all customers. Riverboats where entry is limited to persons who are at least twenty-one (21) years of age and on which lawful gambling is authorized.~~

(b) As used in this section, "coin machine" has the meaning set forth in IC 35-43-5-1.

(c) ~~a person~~ **Except as provided in subsection (a), an owner of a retail establishment** may not:

- (1) distribute or sell tobacco by use of a coin machine; or
- (2) install or maintain a coin machine that is intended to be used for the sale or distribution of tobacco.

(d) ~~A person~~ **An owner of a retail establishment** who violates this section commits a Class C infraction. **A citation or summons issued**

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under this section must provide notice that the coin machine must be moved within two (2) business days. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

- (1) If the owner of the retail establishment has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).
- (2) If the owner of the retail establishment has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).
- (3) If the owner of the retail establishment has had two (2) citations or summonses issued for a violation of this section in the previous ninety (90) days for the same machine, the coin machine shall be removed or impounded by a law enforcement officer having jurisdiction where the violation occurs.

An owner of a retail establishment may not be issued a citation or summons for a violation of this section more than once every two (2) business days for each business location.

(e) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund IC 7.1-6-2-6.

SECTION 14. IC 35-46-1-11.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11.7. (a) A retail establishment that has as its primary purpose the sale of tobacco products may not allow an individual who is less than eighteen (18) years of age to enter the retail establishment.

(b) An individual who is less than eighteen (18) years of age may not enter a retail establishment described in subsection (a).

(c) A retail establishment described in subsection (a) must conspicuously post on all entrances to the retail establishment a sign in boldface type that states "NOTICE: It is unlawful for a person less than 18 years old to enter this store.".

(d) A person who violates this section commits a Class C infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

- (1) If the person has not been cited for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).



(2) If the person has had one (1) violation in the previous ninety (90) days, a civil penalty of one hundred dollars (\$100).

(3) If the person has had two (2) violations in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).

(4) If the person has had three (3) or more violations in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).

A person may not be cited more than once every twenty-four (24) hours.

(e) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund IC 7.1-6-2-6.

SECTION 15. [EFFECTIVE MAY 14, 1999] (a) Notwithstanding IC 35-46-1-11.3, as amended by this act, a person who before May 14, 1999, had:

(1) an advertisement of a tobacco product on a billboard that was compliant with IC 35-46-1-11.3, before its amendment by this act; and

(2) a contract to continue the advertisement of the tobacco product after May 13, 1999;

may continue to advertise the tobacco product on the billboard. However, the person may not renew or extend the contract after May 13, 1999.

(b) This SECTION expires July 1, 2000.

SECTION 16. [EFFECTIVE JULY 1, 1999] (a) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and the alcoholic beverage commission solely for the purpose of the list prepared under IC 6-2.5-6-14.

(b) This SECTION expires January 1, 2000.

SECTION 17. An emergency is declared for this act.

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